Revenue Commissioner.—

No time limit has been fixed.

Mr. M. C. Linge Gowda.—

Will not the interests of the raiyats suffer by such a vast extent of land being given away to the Sugar Company for an indefinite length of time?

Revenue Commissioner.—

No. If the interests of the raiyats were to suffer by it, the scheme would not have been pushed through at all.

Mr. M. C. Linge Gowda.—

As more and more raiyats are coming forward to supply cane, where is the need for the Company itself to grow its own cane any longer?

Revenue Commissioner.—

If the raiyats were in a position to supply all the cane requirements of the factory throughout the year, there would be no need for the Company to grow any cane. But then, there is no such guarantee at present.

At this stage, the Assembly adjourned for lunch and reassembled at 3-50 P.M.

GOVERNMENT BUSINESS.

I. Bill to amend the Land Revenue Code.

THE GENERAL SECRETARY TO GOVERNMENT explained the general principles of the Bill as follows :—

"1. Sections 127 to 129 of the Land Revenue Code empower the revenue authorities to enquire into and settle disputes relating to boundaries of survey numbers at any time before or after survey and such a settlement will be determinative not only of the position of the boundary line but of the rights of the holders on either side of it also. But the Deputy Commissioner has not been empowered to enforce his decision by evicting the person in wrongful possession in accordance with the procedure prescribed under Section 209. The injured party has, therefore, to go to the civil court to get possession of his land encroached upon in case there is no voluntary relinquishment. Section 121 of the Bombay

Land Revenue Code corresponding to Section 129 of the Mysore Land Revenue Code has been amended in 1913 empowering the Collector to enforce his decision by evicting summarily the person in wrongful possession. It is, therefore, proposed to amend the Mysore Land Revenue Code by the addition of a clause to Section 129 similar to clause (2) of Section 121 of the Bombay Land Revenue Code. This would satisfy the demand expressed at the Representative Assembly Session of October 1933 for an expeditious remedy in cases of disputed field boundaries.

"2. Under Section 165, Land Revenue Code, the Deputy Commissioner may, with the previous sanction of the Revenue Commissioner, attach and take over the management of an inam village in respect of which an arrear is due. The view held till recently in the Government Orders noted in the margin was that, when an inam village was so attached and taken under Government management, it was restored temporarily to its original condition of an unalienated village and that the assessment due from the holders in such a village could be recovered by summary process without any limit of time.

No. R. 5762—L. R. 360-14-8, dated 11th December 1915.

No. R. 3085-93—L. R. 339-22-4, dated 9th April 1928.

"The High Court, however, in second appeal No. 86 of 1927-28 (Shamasubbiah *vs.* Subba Rao) held that so long as an inam village was under Government management, the rights of Government, except to the extent to which they are expressly provided for, are those of a Manager and as such the right of the Government *qua* Manager to recover the arrears of rent due from an inferior holder is subject to the same limitation as that prescribed in the case of the superior holder himself, under Article 119 A of the Limitation Regulation, *viz.*, six years.

"The effect of this decision is that even if an inam village is taken over under Government management, Government cannot recover arrears of rent or revenue by summary revenue process except for a period of two years and for recovery of six years' arrears which the Law of Limitation allows Government is compelled to have recourse to a civil court.

"These restrictions are likely to create difficulties in the management of inam villages and the recovery of Government revenue. It is, therefore, considered necessary to amend the Land Revenue Code so as to enable the Government (revenue officers) to recover by summary process the

rent or land revenue due by inferior holders or co-sharers in their holdings provided that action for such recovery is taken within six years from the end of the revenue year for which the said rent or land revenue became due.

" 3. The Bill is intended to give effect to the above-mentioned changes in the law."

Khan Bahadur MAHOMED ABBAS KHAN, in commending the Bill to the acceptance of the House, said that according to the first amendment, the power proposed to be given to the Deputy Commissioner was necessary in order to enable him to settle boundary disputes so that the contending parties need not necessarily have to resort to civil courts, which entailed unnecessary waste of time and money.

As regards the second amendment, he said that under the existing rules, the revenue authorities could not recover arrears of rent for more than two years without having recourse to a civil court. It would be anomalous to say that Government managed a village but could not collect a demand in arrear. For this reason, the second amendment was also necessary.

As both the amendments were meant to obviate civil litigation, he was of opinion that the general principles of the Bill might be accepted by the House.

MR. K. CHENGALARAYA REDDY supported the first amendment as it had been proposed by the Assembly itself in October 1933.

As regards the second amendment, he said that the question might be taken up along with the Inam Committee Report. That Committee had toured throughout the State and made a comprehensive report several months ago, but orders on it had not yet been passed. One of their recommendations was to the effect that the power of recovering arrears of rent by summary process should be given not only to Government-managed inam villages but to all inam villages. It was not expedient to propose the amendment in respect of Government-managed inam villages only. For this reason, he suggested that Government might introduce a more comprehensive Bill at the next session, incorporating therein not only the particular amendment in question but also all the points dealt with in the Inam Committee Report.

In opposing the second amendment, MR. C. N. NARASINGA RAO pointed out that under the proposed law, a tenant could be evicted by summary process without having full opportunities either to defend himself or prove prior payment. If,

on the other hand, the dispute was to be settled by a civil court, he could let in oral or other evidence and defend himself. As a matter of fact, it sometimes happened that the inamdars would have collected the rent from the tenants without issuing receipts and not paying the jodi or khayamgutta to the Government. In such cases, if Government should recover the land revenue from the tenant by summary process, he would be subjected to considerable hardship.

THE FIRST MEMBER OF COUNCIL cautioned the House against any misapprehension that summary process was meant to be resorted to without settling the demand in advance; if a tenant proved that he had already paid his land revenue to the inamdar, nobody would think of collecting it from him over again.

Rao Sahib M. RAMASWAMI represented that firstly, most of the inams in the State had co-sharers and it so happened that while some paid their land revenue regularly, others did not pay. Secondly, there were lands common to all the *vrittidars*; and in such cases, they collected all the dues from the raiyats but none of them thought about the Government dues. And thirdly, there were cases where both tenants and *vrittidars* had sustained losses due to failure of crops or other reasons and were therefore really unable to pay. In all such cases, the demand would have to be settled with great caution and after due enquiry with a view to safeguard the interests not only of the tenants but also of the *vrittidars*. Instead of considering all these, the Bill aimed at recovering all the arrears of assessment by mere executive order. The member was therefore opposed to the measure.

MR. K. CHENGALARAYA REDDY enquired what action would be taken in respect of other inam villages.

THE FIRST MEMBER OF COUNCIL replied that that question would come up along with the general question.

MR. K. CHENGALARAYA REDDY suggested that the question of improvement of inam villages under Government might also be taken into consideration while bringing up a comprehensive bill.

MR. P. SEETHARAMIAH, referring to the first of the amendments under discussion, pointed out that in enforcing his decision about encroachments, the Deputy Commissioner was proposed to be given the summary power of evicting the person who was alleged to have trespassed the boundary line. If this power was once exercised by the Deputy Commissioner

or some other subordinate officer on his behalf, and one of the landholders is ejected summarily, the aggrieved party would have no scope whatever to re-open the question even in a civil court and this would work as a great hardship. He, therefore, objected to giving such summary powers to any single officer of Government, more especially in view of easement rights and such other complications that were common to boundary disputes.

THE FIRST MEMBER OF COUNCIL stated that in cases where a tenant or landholder apprehended any interference with his own rights, it would be open to him to apply to a civil court and obtain a stay order or injunction.

MR. P. SEETHARAMIAH thought that this had not been provided for in the amendment.

THE FIRST MEMBER OF COUNCIL replied that the rights of civil courts were not affected by the amendment in any way and so there was no necessity for a special provision in this behalf.

MR. P. SEETHARAMIAH said that in that case, he would not object to the amendment on that score. But he insisted that any action taken by the Deputy Commissioner under this law should be taken only after a formal enquiry about the relative rights of the contending parties.

THE FIRST MEMBER OF COUNCIL replied that this was a matter of detail which might be left to be considered by the Legislative Council if necessary.

MR. P. SEETHARAMIAH had no objection to the settlement of the boundary line by the Deputy Commissioner, but that officer, he said, should have no power to fix the rights of the holders on either side of it, because either of them might not have sufficient chances of letting in proper evidence in the matter.

As regards the second amendment, he thought that the exercise of the summary power proposed should be made applicable only to the recovery of arrears accruing to Government, after a village was taken over for Government management.

THE FIRST MEMBER OF COUNCIL explained that summary procedure necessarily implied the fixing of the demand in the first instance. In fixing the demand, wherever there was any dispute, the Deputy Commissioner or the Sub-Division Officer concerned was bound to investigate the matter and decide it with reference to the evidence that might be adduced. It must also be remembered that the revenue officers were not making the collections from inam lands on

behalf of the Government. The parties concerned were the inamdar and the tenant, and the Deputy Commissioner or his Assistant was there to do justice between the two and fix the demand properly. The summary procedure would come in only after the demand was duly fixed.

MR. P. SEETHARAMIAH suggested that the power of fixing the demand might vest in the civil court and not in the revenue authorities. After the arrears were fixed by the civil court, the summary powers might be exercised by the revenue officers for purposes of actual collection.

THE FIRST MEMBER OF COUNCIL enquired why tenants of inam villages should aspire for such a privilege, when thousands of raiyats in Government villages did not have it.

MR. P. SEETHARAMIAH replied that there was little in common between raiyats of inam and Government villages and so there was special reason for extending this privilege in the case of raiyats of inam villages. Tenants of Government villages were in a much happier position. Otherwise, there would have been no necessity for Government appointing the Inam Committee at all to enquire into the condition of inam villages.

MR. L. VEMA REDDY said that though the object underlying the amendments was very good, difficulties were sure to arise in giving effect to them because, though the Government were quite sympathetic to the raiyats, the attitude of the revenue officers was quite different. Even if an enquiry was held for fixing the arrear demand, it would not be a fair enquiry. As matters stood, the relations between the jodidar and the tenant were quite harmonious; so much so that even receipts were not being issued by the former for rents collected. At the same time, there were instances in which jodidars knew the weak position of their tenants and if the latter fell out with the former at any time, the jodidars demanded all the amounts over again. In such cases, if the matter came up for enquiry, the Deputy Commissioner would find it hard to decide in favour of the tenants, because firstly, he would have his eye only to the collection of as large an amount as possible; and secondly, the tenants had no receipts or other written evidence to produce in proof of past payment. In these circumstances, he said the new provision should be made applicable only to demands accruing after a village was taken over for Government management.

MR. K. M. KRISHNAPPA GOWDA said that it would be very difficult for the Deputy Commissioner to fix the correct demand. The statement of demand would be prepared

either by the Revenue Inspector or the patel and it might not be accurate; and even if a landholder said that a particular payment was not due from him and produced certain evidence, the revenue officers entrusted with the inquiry could not enter into all the details which civil courts might be expected to do. And if their enquiry and order were not acceptable to the landholder, he might have to go in appeal and fight out his case. Government were not getting from the inamdars any periodical statement of demand, collection, and balance as in the case of unalienated villages and so the inamdars were not in the habit of maintaining proper accounts. It would therefore be very difficult to ascertain how much exactly was due from any particular tenant or landholder at any given time. For these reasons, he thought that the summary powers proposed in the Bill need not be given to the revenue officers.

THE FIRST MEMBER OF COUNCIL repeated that before assuming charge of an inam village, it was obligatory on the part of the Deputy Commissioner to make a proper inquiry and settle the demand and that before settling a demand, the summary powers would not be exercised.

MR. MALUR SUBBA RAO suggested that this point might be incorporated in the statement of general principles of the Bill.

THE FIRST MEMBER OF COUNCIL replied that it was unnecessary, being a point of detail which could be provided for in the final Bill to be placed before the Legislative Council. He, however, assured the House that provision would be made to the effect that concerned persons would have every opportunity to have their say at the time of the preliminary enquiry.

MR. NILGIRI G. SANJEEVIAH was afraid that this Bill would increase the difficulties of the raiyats in inam villages. The Government should deal with the inamdars direct and not with the raiyats. For the sake of proving that a land revenue demand was already paid and contesting a second demand for payment of the same amount, raiyats could not afford to employ lawyers to conduct cases.

MR. BELUR SRINIVASIENGAR pointed out that if an inam village was taken under Government management, the rights that Government got thereby would be those of a Manager; they could not get powers which the principal himself did not enjoy. As such Government were putting the cart before the horse in proposing to vest summary powers in the Deputy Commissioners. The moneys due from the inamdar

to the Government were different from the sums due to the inamdar from the raiyats. Such being the case, he could not understand why Government should ask for more powers than the inamdar himself possessed.

He thought it necessary first to mention in the Bill that the exact demand would be fixed after formal inquiry, and secondly, to make the Deputy Commissioner's decisions appealable. If these two suggestions were not accepted, he did not think that the House would be justified in voting in favour of the measure.

MR. S. C. MALLAIYA opposed the Bill as it did not make for any additional conveniences to the raiyats in inam villages who were labouring under several handicaps. In many inam villages, there were tanks which had not been restored or repaired for decades together. All the same, wet assessment was being collected even though no wet crops were being raised. Remissions were altogether unheard of in inam villages. There was no one to question the arbitrary actions of the inamdars For instance, the patels and shanbhogs in inam villages were being changed frequently. Sometimes, these absconded with land revenue collections, and unlike in Government villages, no action was taken against them. In such cases, there would be no justification in collecting the land revenue from the raiyats again. There was no guarantee that such double collection would not be resorted to by executive officers of Government. If a raiyat could not produce receipts for amounts already paid, Government might, according to the provisions of the amended Bill, order the collection a second time on the ground that the inamdar had not received the money at all and thus create undue hardships to the raiyats. For this reason, he suggested that even where the arrears had really accumulated, the inamdars should be made to suffer for their fault in not having taken timely action to collect the revenue. It might be that the inamdars allowed arrears to accumulate just to harass their tenants. All things considered, he would request the Government not to press the amendment but bring in a more comprehensive measure embodying points calculated to safeguard the interests of the tenants also.

MR. K. T. BHASHYAM AIYANGAR opposed the first amendment on the ground that the decision of the Deputy Commissioner was not made appealable before a court of law. The raiyats had come to lose faith in the judicial decisions of executive officers of Government. The way in which revenue appeals were being disposed of, for example, was a

matter of common knowledge. Whereas, in civil courts the aggrieved party could cite witnesses, examine and cross-examine them and get a decree, they could not do so in cases tried by executive officers of Government. Besides, decisions of executive officers who had their own ideas about men and matters were not always impartial. In case they were not satisfied with a decree passed by a court of law, they could try to get it set aside in appeal. Thus civil cases were any day better. And even granting that revenue officers were anxious to do justice by the people, it had to be remembered that they had too many things to do and it would not be possible for them with all the limitations on their time and energy to pay adequate attention to these cases. In fact, it was for these reasons that the scheme of separation of the judicial and executive functions had been inaugurated. From that point of view, it was a pity that Government were still trying to entrust both these functions to executive officers under the proposed measure.

As regards the second amendment, the member was not sure how far the law in Bombay, on which this Bill was said to have been based, was being appreciated by the raiyats there. It was, however, clear from the trend of the discussions that it would not be viewed with favour in Mysore. To arm the Deputy Commissioners with summary powers for recovering six years' arrears seemed to him to be open to grave objections. Even if they did it after a formal inquiry, he was afraid that the decisions would not be as fair and impartial as civil court decrees. It was a fact that people had greater confidence in the civil courts.

Proceeding, he also suggested that Government should have adequate provisions to safeguard the raiyats' interests and bring up a revised Bill at the next session of the House instead of dealing with matters piecemeal.

At this stage, the Assembly adjourned to meet again at 12 noon the next day.